(1) As used in this rule, "thermostat" and "mercury-containing thermostat" mean a device commonly used to sense and, through electrical communication with heating, cooling, or ventilation equipment, control room temperature.

(2) All mercury-containing thermostats sold in Oregon must meet the following labeling requirements:

(a) The mercury-containing thermostat must have a label that contains the following information:

(A) The wording "Contains Mercury. Manage Properly."

(B) An icon containing the symbol of a person dropping an object into a trashcan with a circle and slash overprinted on the image, indicating "Do not dispose in trash".

(b) The label must be affixed to the product so that the label is clearly visible and legible. The font size for print on the label must be no smaller than 10 point.

(c) The label affixed to the product must be printed, mounted, molded, engraved or otherwise affixed, using materials that are sufficiently durable to remain legible for the useful life of the product.

(d) If the product is sold in packaging that obscures the label on the product, then the packaging also must have a label meeting the same standards as the product label. If, prior to the sale, a retailer re-packages the product, then the retailer must label the new packaging in accordance with this rule.

(3) Failure to meet the provisions of this rule may result in enforcement under the provisions of the Unlawful Trade Practices Act, ORS 646.605 to 625.

Stat.Auth: ORS 459.045
Stats.Implemented: ORS 646.608(1)(y)
Hist.: DEQ 7-2002, f. & cert. ef. 6-11-02; DEQ 3-2017, f. & cert. ef. 1-19-17

• • • • • • • • • •

Rule Caption: Ballast Water Management Rules
Adm. Order No.: DEQ 4-2017
Filed with Sec. of State: 1-19-2017
Certified to be Effective: 3-1-17
Notice Publication Date: 5-1-2016
Rules Amended: 340-143-0005, 340-143-0010, 340-143-0050
Subject: The amended rules establish greater protection for Oregon water resources and aquatic ecosystems in two ways. First, the rules close a management gap associated with residual ballast water and sediments in empty ballast tanks that represents a risk for introducing aquatic invasive species when vessel operators must ballast and subsequently de-ballast from empty ballast tanks while in state waters. The proposed rule requires vessel operators to conduct a mid-ocean saltwater flush of empty ballast tanks that they want to use for ballasting and subsequent de-ballasting while in port.

Second, the rules address concerns that recent federal regulatory changes will replace a strategy that has proven to be highly protective for low-salinity ports, like those in Oregon, with reliance upon first generation shipboard treatment technologies that, under some circumstances, could be less protective of Oregon ports. Under current state rules, vessel operators are no longer required to conduct ballast water exchange practices following implementation of federal discharge standards that generally require use of new shipboard treatment technology. The proposed rule would retain ballast water exchange requirements for a subset of vessel arrivals that represent a high-risk for introducing Aquatic Invasive Species to Oregon, in addition to meeting federal treatment requirements, for high-risk voyages that have sourced ballast from low-salinity environments.

Retaining ballast exchange for high-risk voyages will serve as an important interim strategy to protect Oregon's low-salinity ports during a significant transition that depends upon the reliability of new technologies that have lacked rigorous testing. As proposed, EQC would repeal the rule after seven years unless DEQ and the EQC determine that technology reliability and efficacy of federal shipboard treatment policies remain inadequate.
Rules Coordinator: Meyer Goldstein—(503) 229-6478

340-143-0005
Definitions

(1) Definitions defined under statute: This division uses the definitions for the following terms provided in ORS 783.625:

(a) "Ballast water";
(b) "Cargo vessel";
(c) "Empty ballast tank":
(d) "Oil";
(e) "Open sea exchange";
(f) "Passenger vessel";
(g) "Sediment";
(h) "Ship";
(i) "Tank vessel";
(j) "Vessel";
(k) "Voyage"; and
(l) "Waters of the State".

(2) Definitions defined by administrative rule: This division uses the following terms as defined in this rule:

(a) "Coastal Ocean Exchange" means the exchange of ballast water in an area no less than 50 nautical miles from any shore and where the water depth exceeds 200 meters.

(b) "Common Waters Zone" means the Pacific Coast of North America between 40 and 50 degrees north latitude.

(c) "DEQ" means the Oregon Department of Environmental Quality.

(d) "Exchange" means to replace the water in a ballast tank using either flow-through exchange, empty/refill exchange, or other exchange methods described under U.S. Coast Guard rules, 33 CFR, part 151.2035.

(e) "Exclusive Economic Zone" extends from the baseline of the U.S. territorial sea seaward 200 nautical miles.

(f) "High-risk Ballast Water" means unexchanged or untreated ballast water obtained from a coastal area outside the common waters zone identified in this rule.

(g) "Internal Waters of the State" means those waters of this state that do not have shared jurisdiction with an adjacent state.

(h) "Nonindigenous Species" means any species or other viable biological material entering an ecosystem beyond its natural range. This also includes seeds, eggs, spores and other biological material entering an ecosystem beyond its natural range.

(i) "Pacific Coast Region" means all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 25 degrees N latitude, exclusive of the Gulf of California.

(j) "Port" means any place to which a vessel is bound to anchor or moor.

(k) "Saltwater flush" means to pump coastal ocean or open sea water, depending upon last ballast source location, into an empty ballast tank in a volume sufficient to ensure that after discharging the ballast water, the remaining residual ballast water and sediment has a salinity greater than or equal to 30 parts per thousand.

(l) "Territorial Sea of the United States" means the waters extending three nautical miles seaward from the coastline in conformance with federal law.

Stat. Auth.: ORS 468.020, 783.620 - 783.640
Stats. Implemented: ORS 783.620 - 783.640
Hist: DEQ 17-2002, f. 11-1-02, cert. ef. 12-1-02; DEQ 4-2011, f. & cert. ef. 3-17-11; DEQ 4-2017, f. 1-19-17, cert. ef. 3-1-17

340-143-0010
Ballast Water Management: Discharge Prohibitions

(1) Vessels may not discharge ballast water containing oil or hazardous material into waters of the state.

(2) Vessels may not discharge ballast water into waters of the state unless:

(a) The vessel discharges ballast water only at the same location where the ballast water originated, provided that the master, operator or person in charge of the vessel can demonstrate compliance with section (3) of this rule or that the ballast water to be discharged was not mixed with ballast water or sediment from an area other than open sea waters. For purposes of this subsection, "same location" means an area within one nautical mile of the berth or within the recognized breakwater of an Oregon port or place, at which the ballast water to be discharged was loaded;

(b) The owner or operator of the vessel conducted proper ballast water exchange management practices before entering waters of the state, as follows:

(A) The vessel conducted an open sea exchange for ballast tanks containing water sourced outside the Exclusive Economic Zone; or

(B) The vessel conducted a coastal ocean exchange for ballast tanks containing water sourced from a port within the Pacific Coast Region of North America;

(c) The vessel obtained the ballast water solely from open sea waters that are no less than 200 nautical miles from any shore and where water depth exceeds 2,000 meters;

(d) The ballast water originated solely from the common waters zone, as defined by OAR 340-143-0005(4);

(e) The ballast water originated solely from municipal or treated drinking water sources and is not mixed with ballast water obtained from areas other than open sea waters;

(f) The ballast water had been managed using a shipboard treatment system that meets the certification and discharge standards set forth in OAR 340-143-0050; or

(g) The vessel owner or operator has declared a safety exemption as described under OAR 340-143-0040(2).

(3) Vessels may not use empty ballast tanks that contain unpumpable residual ballast water for ballasting and subsequent deballasting within waters of the state unless the residual ballast water has salinity greater than or equal to 30 parts per thousand at the time of entering state waters. Vessel operators that are unable to verify the salinity of the residual ballast water before entering state waters must conduct a saltwater flush of empty ballast tank(s):

(a) At least 200 nautical miles from any shore for tank(s) containing water sourced outside the Exclusive Economic Zone; or

(b) At least 50 nautical miles from shore and in waters at least 200 meters deep for tank(s) containing water sourced within the Pacific Coast Region of North America.

Stat. Auth.: ORS 468.020, 783.620 - 783.640
Stats. Implemented: ORS 783.620 - 783.640
Hist: DEQ 17-2002, f. 11-1-02, cert. ef. 12-1-02; DEQ 4-2011, f. & cert. ef. 3-17-11; DEQ 4-2017, f. 1-19-17, cert. ef. 3-1-17

340-143-0050
Ballast Water Management: Shipboard Ballast Water Treatment Systems

(1) Use of shipboard ballast water treatment systems. Ballast water treated using technology approved for shipboard use by the U.S. Coast Guard and in compliance with federal discharge standards established by the U.S. Environmental Protection Agency may be discharged to waters of the state but may also be subject to additional management practice requirements established under section (2) of this rule.

(2) Ballast exchange plus treatment. For vessels managing ballast water with a shipboard treatment system under federal discharge standards, the vessel operator must also conduct ballast water exchange for tanks with ballast water salinity less than or equal to 18 parts per thousand, or under circumstances when vessel operator is unable to verify ballast salinity. This requirement applies to ballast discharge to waters of the Columbia River, Coos Bay, or Yaquina Bay. Under these circumstances, vessel operators must conduct ballast exchange or saltwater flushing practices prior to treatment, as OAR 340-143-0010(2)(b), and 340-143-0010(3) specify, respectively, resulting in salinity greater than or equal to 30 parts per thousand. The ballast water exchange requirement under this section does not apply if:

(a) The vessel is equipped with a ballast water treatment system approved for shipboard use by the U.S. Coast Guard and meets a ballast discharge standard more stringent than the International Maritime Organization D-2 standards established under the 2004 Ballast Water Management Convention, provided that discharged ballast contains:

(A) Less than 1 living organism per 10 cubic meters that is 50 or more micrometers in minimum dimension;

(B) Less than 1 living organism per 10 milliliters that is less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension; and

(C) Concentrations of indicator microbes that are less than:

(i) One colony-forming unit of toxicogenic Vibrio cholera (serotypes 01 and 0139) per 100 milliliters or less than one colony-forming unit of that microbe per gram of wet weight of zoological samples;

(ii) 126 colony-forming units of Escherichia coli per 100 milliliters; and

(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters.

(b) The ballast water discharge qualifies for an exemption set forth in OAR 340-143-0010(2)(a), 340-143-0010(2)(c), 340-143-0010(2)(d), or 340-143-0010(2)(e), or

(c) DEQ authorizes a vessel's voyage an exemption from the exchange requirements portion of this rule per exemption request procedures established under OAR 143-0040 for circumstances where:

(A) Design specifications indicate that exchange is incompatible with treatment system or vessel piping configurations, or

(B) Conducting exchange prior to treatment represents a threat to the environment, crew, or vessel.

(3) As an alternative to discharging high-risk ballast water identified in 340-143-0040, DEQ may authorize, by order in writing, using ballast water treatment systems identified as promising technology by the U.S. EPA, U.S. Coast Guard or neighboring states.

(4) Section (2) of this rule is no longer in effect after December 19, 2023. Before this date, DEQ, in consultation with a stakeholder advisory group, will review current science on the efficacy of federal ballast water discharge standards and shipboard treatment systems, or the potential need for continuation of this rule to prevent introductions of aquatic invasive species to Oregon waters.

Stat. Auth.: ORS 468.020, 783.620 - 783.640
Stats. Implemented: ORS 783.620 - 783.640
Hist: DEQ 4-2011, f. & cert. ef. 3-17-11; DEQ 4-2017, f. 1-19-17, cert. ef. 3-1-17

• • • • • • • • • •

Department of Fish and Wildlife
Chapter 635

Rule Caption: Sprague River Closed to Angling January 23 Through April 21, 2017.
Adm. Order No.: DFW 1-2017(Temp)
Filed with Sec. of State: 1-18-2017
Certified to be Effective: 1-18-17 thru 4-21-17
Notice Publication Date:
Rules Amended: 635-021-0090
Subject: This amended rule modifies the recreational season on the Sprague River in the Southeast angling zone. The Sprague River will be closed to all angling beginning January 23 through April 21, 2017. Closing the Sprague River during this time frame will protect redband trout from angling pressure and mortality associated with handling and harassment. The season will reopen to angling on April 22, 2017. Adfluvial redband trout are repeat spawners, thus the excessive stress placed on these fish from spawning and harassment by anglers would reduce their chances of survival and have repercussions on future fisheries in Upper Klamath Lake and the Williamson River.
Rules Coordinator: Michelle Tate—(503) 947-6044

635-021-0090
Inclusions and Modifications

(1) The **2017 Oregon Sport Fishing Regulations** provide requirements for the Southeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2017 Oregon Sport Fishing Regulations**.

(2) The Sprague River will be closed to all angling beginning January 23 through April 21, 2017.

Stat. Auth.: ORS 183.325, 496.138, 496.146
Stats. Implemented: ORS 496.162
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; DFW 91-2002(Temp) f. 8-19-02,cert. ef 8-20-02 thru 11-1-0 2 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2007(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10, cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12; DFW 114-2012(Temp), f. 8-30-12, cert. ef. 9-1-12 thru 2-27-13; DFW 117-2012(Temp), f. 9-5-12, cert. ef. 9-7-12 thru 2-27-13; DFW 122-2012(Temp), f. 9-21-12, cert. ef. 9-21-12 thru 12-31-12; DFW 149-2012, f. 12-27-12, cert. ef. 1-1-13; DFW 61-2013(Temp), f. 6-24-13, cert. ef. 7-1-13 thru 12-27-13; DFW 93-2013(Temp), f. 8-22-13, cert. ef. 8-24-13 thru 12-31-13; DFW